

# Licensing Sub-Committee

**Date: Thursday, 11th July, 2024**

**Time: 10.00am**

**Venue: Kaposvar Room - Guildhall, Bath**

**Councillors:** Steve Hedges, Toby Simon and Ann Morgan

Chief Executive and other appropriate officers  
Press and Public

**A briefing session for Members will be held at 9.30am.**



**Mark Durnford**

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## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

## 3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast). The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

## 4. Public Speaking at Meetings

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

**Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.**

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

## 5. Emergency Evacuation Procedure

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

## 6. Supplementary information for meetings

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

**Licensing Sub-Committee - Thursday, 11th July, 2024**

**at 10.00am in the Kaposvar Room - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting.

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest** or an **other interest** (as defined in Part 4.4 Appendix B of the Code of Conduct and Rules for Registration of Interests).

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES OF PREVIOUS MEETING: 27TH JUNE 2024 (Pages 5 - 10)

6. LICENSING PROCEDURE (Pages 11 - 14)

The Chair will, if required, explain the licensing procedure.

7. EXCLUSION OF THE PUBLIC

The Sub-Committee is asked to consider passing the following resolution:

“the Sub-Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVES** that the public shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

8. CONSIDERATION OF FIT AND PROPER - 21/02399/TAXI (Pages 15 - 60)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

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**BATH AND NORTH EAST SOMERSET**

**LICENSING SUB-COMMITTEE**

Thursday, 27th June, 2024

**Present:-** Councillors Steve Hedges (Chair), Toby Simon and Michael Auton

**Also in attendance:** Carrie-Ann Evans (Team Leader, Legal Services) and Geoff Cannon (Public Protection Officer (Licensing))

**10 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

**11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**12 DECLARATIONS OF INTEREST**

There were none.

**13 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**14 MINUTES OF PREVIOUS MEETING: 13TH JUNE 2024**

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 13<sup>th</sup> June 2024.

**15 LICENSING PROCEDURE**

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

**16 APPLICATION FOR A NEW PREMISES LICENCE FOR FLY FITNESS LTD. 3 - 4 BATH STREET, BATH. BA1 1SB**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that the application proposes the following licensable activities:

The sale of alcohol for consumption on and off the premises 09:00 to 22:00 every day.

He informed the Sub-Committee that the application also proposes the following opening times: 09:00 to 22:00 every day.

He stated that following consultation with the police, a number of measures have been offered by the applicant to promote the licensing objectives and that these were contained within the report.

He said that all interested parties were made aware of the proposed measures which replace those offered by the applicant in the original application.

Councillor Toby Simon stated that he did not feel that the wording in relation to the types of glasses used on the premises was drafted well enough and said that if the Sub-Committee were minded to grant the application he would provide them with a form of words.

Chris Clinton and Joe Suckling addressed the Sub-Committee and informed them that they were both a director of the business, Mjolk Float, that operate the mobile café in the area outside of Fly Fitness.

Chris Clinton explained that this business was a spin-off from his city centre café Mjolk and that the sale of alcohol would be an additional offer for tourists and locals to enjoy in a relaxing atmosphere. He said that they have no intention of operating late into the evening regularly.

Joe Suckling said that the premises had operated under similar conditions to those being applied for during a May Bank Holiday under a Temporary Event Notice. He added that alcohol sales were quite low, the atmosphere was good and that no issues of concern had been raised.

Chris Clinton stated that having the option to sell alcohol and stay open later would give them the opportunity to host private events, such as wine tasting, accompanied by Swedish style food. He added that they seek to run a family friendly premises and that staff were well aware of how to handle certain types of customers.

The Chair asked if they would be willing to have signage in place at the premises that asks customers to be quiet when leaving the premises.

Chris Clinton replied they would put in place such notices.

Ann Crooke, an objector to the application, said that she was concerned that Bilbury Lane would be turned into a dumping ground and asked where would the tables and chairs be stored when not in use.

Chris Clinton replied that they are stored in Bilbury Lane, but stressed that every attempt is made to keep the area as clear as possible. He added that their bins could be moved closer to Fly Fitness if that would help and stated they use seagull proof bags when disposing their rubbish.

Ann Crooke addressed the Sub-Committee and explained that Bath Street was a quiet place during the evening and not generally part of the tourist area. She queried

who would be able to monitor the CCTV if a problem should occur and the gym is closed.

She said she was concerned should customers purchase an alcoholic drink and then proceed down Bilbury Lane as there would be no toilet facilities available.

She added that she was concerned that the mobile outlet itself would block a right of way and access to the cash machines situated near the vicinity of the premises.

She stated that she felt that if the application was granted it would change the area as a whole and was worried that the use of the later hours would grow incrementally.

The Chair asked for both parties to make a summing up statement.

Ann Crooke said that she was concerned about the effect the extension of the operating hours would have on the residential community.

Chris Clinton acknowledged that he understood the concerns that have been raised and said that he would guarantee that the staff would respond to any problems raised by the residents. He added that they would do their best to keep Bilbury Lane clean and quiet.

He informed the Sub-Committee that they are able to access the premises of Fly Fitness once it has closed for the day should the CCTV need to be observed or to open the toilets if they are operating under their later hours for their customers to use.

### Decision & Reasons

Members have determined an application for a new Premises Licence at FLY Fitness Limited, 3-4 Bath Street, Bath BA1 1SB. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives on the information before them. Members reminded themselves that each application must be considered on its own merits.

Chris Clinton and Jo Suckling addressed Members in oral representations in support of the application. They indicated that the sale of alcohol is proposed to supplement their existing offering of coffee and pastries. For the most part they are likely to close at 5 or 6pm but would like to have the option to put on private and special events and that is where the licence until 10pm comes in. In addressing Members and the objector they indicated that they would be agreeable to a condition in relation to signage to say that in relation to noise, customers should respect the neighbours. They also indicated that the neighbours are a priority for them and their staff.

Members had regard to the written objections from Mr and Mrs Crooke and Mr Lapraik. They also had regard to oral representations from Mrs Crooke on behalf of

herself and her husband. In summary the objections were based on the prevention of public nuisance licensing objective. The objectors expressed concerns that the proposal would result in intoxicated people hanging around an otherwise quiet residential area at all hours, which they felt was totally inappropriate for the sale of alcohol and they said that the presence of drunk people could be frightening to them and disrupt the use of the ATM and access to vehicles. In response to a question from Members, Mrs Crooke indicated that she was concerned about anti-social behaviour.

In determining this application Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members disregarded irrelevant representations such as the potential impact of the proposal on film and tv productions and matters which are the subject of other statutory regimes.

Members noted at paragraph 2.27 of the Statutory Guidance it provides that *“beyond the immediate area surrounding the premises, these are matters for the responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area.”*

Members noted that there had been no representations of objection from Responsible Authorities and the police had recommended a suite of conditions to promote the licensing objectives, all of which had been accepted by the applicant.

The Sub-Committee carefully considered the noise likely to emanate from the normal operation of an outside seating area. On balance the Sub-Committee did not consider the likely nuisance level to be such as to justify restrictions on the opening hours beyond those applied for, as Members were satisfied that the measures offered by the applicant would promote the prevention of public nuisance licensing objective.

Authority is therefore delegated to the licensing officer to issue the licence as applied for subject to the conditions proposed by the police and accepted by the applicant and subject to the following additional condition:

*“Signage to be erected at the premises to ask customers to respect neighbours and to keep noise to a minimum when leaving the premises.”*

And amendment to the following condition:

Change the proposed condition relating to drinking receptacles from:

*“All drinking glasses used within the premises must be made of plastic and toughened or safety glass to the appropriate safety standard, in that they shall not produce sharp shards when broken.”*

Change to:



*“Plastic drinking vessels shall be such that they will not produce sharp shards when broken. Any drinking glasses used within the premises must be made of toughened or safety glass to the appropriate safety standard.”*

The meeting ended at 11.25 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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### Licensing Sub Committee Hackney Carriage and Private Hire Drivers Complaint Hearing Procedure

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Complainant presents their case, may call witnesses and may be questioned by the Committee and other parties. Where a written complaint has been made the complaint will be read by the Committee. The procedure will be repeated should there be more than one complainant.
4. The Licensee presents their case, may call witnesses and may be questioned by the Committee and other parties.
5. The Chair will ask the Licensing Officers present whether they wish to comment. An Officer making comment may be asked questions.
6. The Complainant is invited to make a closing statement
7. The Licensee is invited to make a closing statement.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

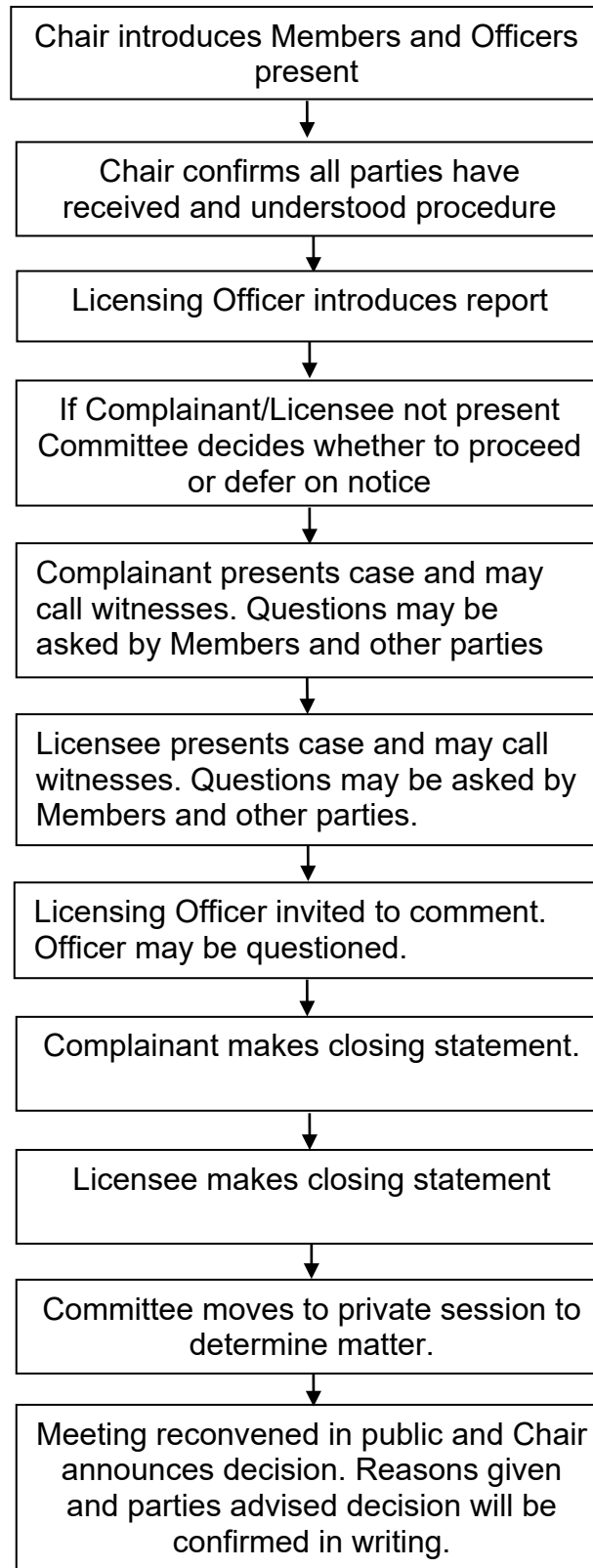
### **PLEASE NOTE:**

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

#### **N.B.**

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
  2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
  3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
  - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
  - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**LICENSING SUB-COMMITTEE  
HACKNEY CARRIAGE (TAXI) AND  
PRIVATE HIRE VEHICLES COMPLAINT PROCEDURE**



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**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1855299

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 11<sup>th</sup> July 2024

Author: Holly Woodrow

**Exempt Report Title: Consideration of Fit and Proper**

Exempt Appendix Title(s):

**Exempt Annex A - Current Licence.**

**Exempt Annex B - Failure To Produce Insurance Warnings.**

**Exempt Annex C - Failure to Produce MOT Warnings.**

**Exempt Annex D - Correspondence Relating to Previous Complaint – September 2015.**

**Exempt Annex E – Correspondence Relating to Previous Complaint – August 2022.**

**Exempt Annex F - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.**

The report and appendices contain exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the report and appendices be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

## PUBLIC INTEREST TEST

If the Sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However, there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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